

Practitioner's Docket No.: 892_019

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Akira WAKABAYASHI

Ser. No.: 09/908,945

Group Art Unit: 3641

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Examiner: James S. Bergin

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REQUEST FOR RECONSIDERATION AFTER FINAL REJECTION

Sir:

The following remarks are in response to the Office Action mailed August 9, 2004.

Claims 3-6, 10 and 11 are pending herein.

1. Applicant notes that the Examiner has withdrawn claims 6 and 11 from further consideration. Applicant thanks the Examiner for the courtesy of including claim 4 in the Office Action. However, Applicant asserts that claim 3 is generic to all species and, therefore, claims 6 and 11 have been maintained.

2. Applicant notes that the Examiner has made the action final. However the claim amendments submitted with the Amendment filed on December 3, 2003 were to overcome the Examiner's §112 rejection, not the then-asserted prior art rejection. Accordingly, Applicant respectfully submits that the new rejection should have been non-final. That is, Applicant's Amendment did not necessitate the new grounds of rejection.